

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re Application of Vale S.A., Vale Holdings B.V., and Vale International S.A. for an Order Pursuant to 28 U.S.C. § 1782 to Conduct Discovery for Use in Foreign Proceedings

Case No.

[PROPOSED] ORDER GRANTING *EX PARTE* APPLICATION TO CONDUCT DISCOVERY FOR USE IN FOREIGN PROCEEDINGS PURSUANT TO 28 U.S.C. § 1782

On April 24, 2020, Vale S.A., Vale Holdings B.V., and Vale International S.A. (“Vale”) submitted an *Ex Parte* Application for an Order Pursuant to 28 U.S.C. § 1782 to Conduct Discovery for Use in Foreign Proceedings (together with all supporting papers, the “Application”). The Application seeks discovery from HFZ Capital Group LLC, Ziel Feldman, Helene Feldman, Feldman Family 2007 Trust, Nir Meir, John Shannon, Kenneth Henderson, Bryan Cave Leighton Paisner LLP, Chatsworth Realty 340 LLC, HFZ 344 West 72nd Street Owner LLC, Chatsworth Realty Corp., 215 Chrystie LLC, HFZ 40 Broad Street LLC, HFZ Highline Property Owner LLC, HFZ Highline Retail Owner LLC, HFZ Highline LLC, HFZ 501West LLC, 20 West 40 Bryant Park Owner LLC, HFZ Bryant Park Owner LLC, Tarpley Belnord Corp., Perfectus Real Estate Corp., HFZ 235 West 75th Street Owner LLC, HFZ 301 West 53rd Street Owner LLC, HFZ 88 Lexington Avenue Owner LLC, HFZ 90 Lexington Avenue Owner LLC, HFZ KIK 30th Street Owner LLC, HFZ West 30th Street Partners LLC, HFZ KIK 30th Street LLC, HFZ KIK 30th Street Mezzanine LLC, 76 Eleventh Avenue Property Owner LLC, RFR Holding LLC, Aby Rosen, R&S Chrysler LLC, RFR Realty LLC, and Fine Arts NY LLC (together, “Respondents”).

The Court has considered the Application and finds that the requirements of Section 1782 are met. First, Respondents reside or may be found in the Southern District of New York. Second, the discovery sought is for use in pending proceedings in the United Kingdom before the High Court of Justice, Business and Property Courts of England and Wales, Commercial Court (QBD) (the “High Court”). Finally, as party to the proceedings pending in the High Court, Vale is an “interested person” within the meaning of Section 1782.

The Court further finds that the factors relevant to its exercise of discretion under Section 1782 weigh in favor of granting the Application. First, none of the Respondents is a party in the English Proceedings, and all reside or are found in the United States. Second, the High Court would be receptive to this Court’s assistance. Third, the Application is a good faith effort to obtain relevant evidence. Finally, the proposed subpoenas submitted as Exhibits A through II to the Declaration of Jeffrey A. Rosenthal in Support of the Application for an Order Pursuant to 28 U.S.C. § 1782 to Conduct Discovery for Use in Foreign Proceedings (the “Subpoenas”) are not unduly intrusive or burdensome.

The Application is accordingly GRANTED. The Court hereby GRANTS Vale leave to serve the Subpoenas. Vale is further authorized to issue and serve additional follow up subpoenas on the Respondents as may be necessary to obtain documentary and testimonial evidence for use in the pending proceedings. The Respondents are ordered to preserve all relevant and potentially relevant evidence in their possession, custody, or control until further

order of this Court. Nothing in this Order shall be construed to prevent or otherwise foreclose Vale from seeking leave of Court to serve any additional subpoena on a person or entity.

SO ORDERED.

Dated: _____, 2020

New York, New York

United States District Judge